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March 21, 2008

**BY FACSIMILE AND  
 OVERNIGHT DELIVERY**

Jeff S. Jordan  
 Federal Election Commission  
 999 E Street, NW  
 Washington, DC 20463

**RE: MUR 5970**

Dear Mr. Jordan:

On behalf of 1199SEIU United Healthcare Workers East (The "Union"), 1199 SEIU Federal Political Action Fund ("1199 PAC"), George Graham, as president and Patrick Gaspard, as treasurer, this letter and affidavit of Patrick Gaspard are submitted in response to the complaint filed by Lori Sherwood (hereinafter referred to as the "Complaint"), alleging that the Union or the 1199 PAC may have violated the Federal Election Campaign Act of 1971, as amended (the "Act").

The Union and the 1199 PAC deny, for the reasons presented below and in Mr. Gaspard's affidavit, that any violation of the Act or of the Commission's regulations has occurred and request that the Commission promptly dismiss this complaint and close this matter, at least in so far as it pertains to the Union or the 1199 PAC.

Under the Act and Commission regulations, a complaint, to be sufficient, valid and appropriate for filing and consideration by the Commission, must conform to certain provisions set forth at 11 C.F.R. 111.4(d). Included in those minimum provisions are a requirement the Complaint contain "a clear and concise recitation of the facts which describe a violation of a statute or regulation..." 11 C.F.R. 111.4(d)(3). The Commission has broad authority to determine how to proceed with respect to complaints, Heckler v. Chaney, 470 US 821 (1985), and can require some legally significant facts in a complaint that distinguish the circumstances from every other independent expenditure situation. Democratic Senatorial Campaign Committee v. Federal Election Com., 745 F. Supp. 742, 746 (D.C. 1990). No such facts are present here.

**LEVY RATNER, P.C.**

Jeff S. Jordan  
March 21, 2008  
Page 2

Quite simply, even a cursory reading of the complaint reveals that it does not meet the very low threshold set forth in the Commission's regulations for supporting a valid complaint against the Union or the 1199 Fund. Merely swearing to unsubstantiated conclusions without a basis in fact should not give rise to Commission consideration of a matter under review.

The complaint fails to allege any facts which suggest that the Union or 1199 PAC coordinated campaign activity with Donna Edwards in her campaign for United States Congress. Instead, the Complaint makes broad allegations and draws vague conclusions of law from those allegations. Paragraph 8 of the complaint asserts that literature produced on behalf of the 1199 Fund was "the direct result of collaboration between the Edwards Campaign and SEIU." The Complainant seemingly offers support for this conclusion by noting that Anna Berger, Secretary Treasurer of SEIU International, who, according to a website, is responsible for SEIU's national political operations, allegedly sat on a corporate board with Donna Edwards at some point in time. These facts would hardly constitute evidence of coordination under any circumstance, but are particularly irrelevant here where, as Mr. Gaspard's affidavit makes clear, Anna Berger does not oversee the 1199 PAC and had no involvement with the subject literature or with the 1199 PAC independent expenditure.

Similarly, the complainant's assertions that SEIU and They Work For Us coordinated radio expenditures does not state a violation of the Act since there is nothing that would prohibit these entities from cooperating in an independent expenditure effort. In any event, these allegations are wholly irrelevant as to the 1199 Fund since it did not make any expenditures for radio broadcast with respect to the subject election.

In conclusion, the complaint is completely devoid of any factual basis for the Commission to find a reason to believe that a violation of the Act or Commission regulations has occurred. The assertions made by the Complainant as to the Union and the 1199 PAC fail to even meet the minimum threshold for serving as the basis of a proper complaint. As demonstrated by Mr. Gaspard's affidavit, the 1199 PAC complied with the Act and the Commission regulations in conducting its independent expenditure effort. There are no factual allegations in the complaint to conclude otherwise. This matter should be dismissed and closed as it pertains to the Union and the 1199 PAC.

This submission is being transmitted by facsimile. A hard copy of this letter and the Gaspard Affidavit are being sent by overnight courier.

Respectfully submitted,

  
Kevin Finnegan

SDN/KAF

**FEDERAL ELECTION COMMISSION**

In the Matter of:

**MUR 5970****Affidavit of  
Patrick Gaspard**

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NEW YORK    )

**AFFIDAVIT OF PATRICK GASPARD**

1. Patrick Gaspard, bring duly sworn, deposes and says:
2. I am the Executive Vice President for political action for 1199SEIU United Healthcare Workers East (the "Union") and I oversees the Political Action Department and serve as Treasurer to the 1199 SEIU Federal Political Action Fund (the "1199 PAC").
3. I submit this affidavit in response to the complaint received by the Federal Election Commission ("FEC") alleging that the Union or the 1199 PAC may have violated the Federal Election Campaign Act of 1971, as amended (hereinafter referred to as the "Complaint").
4. I am responsible for all literature and other materials produced by the Union and 1199 PAC in support of any political campaigns, as well as any independent expenditures.
5. Paragraph 8 of the Complaint alleges that the Union and/or the 1199 PAC and the Donna Edwards Campaign (the "Campaign") collaborated to produce literature supporting Donna Edwards in her campaign for United States Congress for the 4<sup>th</sup> District of Maryland.

6. The 1199 PAC produced literature which was mailed to voters supporting the election of Donna Edwards, including the literature attached as Exhibit 3 of the Complaint.

7. This literature was produced as part of an independent expenditure effort by the 1199 PAC in support of the 2008 Congressional primary campaign of Donna Edwards.

8. At no time did I or anyone associated with the Union discuss the literature produced by the 1199 PAC with Donna Edwards or anyone affiliated with the Campaign.

9. I selected the vendor used to produce the materials supporting Donna Edwards. Prior to hiring the vendor, I affirmatively checked that this vendor did not have a contract with the Campaign and was not affiliated with the Campaign in any way. I am not aware of any contact between the vendor and the Campaign and I believe that the vendor was never in a position to acquire information about the Campaign's plans, projects, needs or activities.

10. My only direct contact with the Campaign was when I spoke to Donna Edwards on or about December 14, 2007 in order to inform her that the Union had endorsed her candidacy.

11. After informing Donna Edwards of the endorsement, I did not speak to her until the night of her election. At no time did I or anyone else at the Union discuss Independent Expenditures with Donna Edwards or anyone associated with her Campaign and no communications were produced after any substantial discussions with Campaign.

12. The Union and the 1199 PAC have a strict policy prohibiting any employees involved in independent expenditures from communicating with candidates or campaign staff who

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are the subject of those expenditures. In accordance with that policy, neither I nor anyone else at the Union or the 1199 PAC who was involved in any way with the independent expenditures communicated with the Campaign regarding campaign strategy or, to the best of my knowledge, any other subjects.

13. In accordance with FEC regulations, no communications were created at the request or suggestion of Donna Edwards or the Campaign. Neither Donna Edwards nor the Campaign were involved in any way in decisions regarding content, intended audience, means or mode of communication, timing, frequency, or size or prominence of printed material.

14. In addition, no member of the 1199 Political Action Department has previously been an employee or independent contractor of Donna Edwards or the Campaign and I am not aware of any Union employee or former employee who was associated with the Campaign.

15. Paragraph 10 of the Complaint alleges that Donna Edwards and Anna Burger are co-founders and Board Members of They Work For Us, a non-profit organization located in the District of Columbia.

16. Anna Burger is not associated with the 1199 PAC and does not oversee expenditures made by the 1199 PAC.

17. I have no knowledge as to who sits on the Board of They Work For Us and I have never spoken to Anna Burger regarding the Donna Edwards Campaign and I am not aware of anyone from the Union who has spoken to Anna Berger about the Campaign.

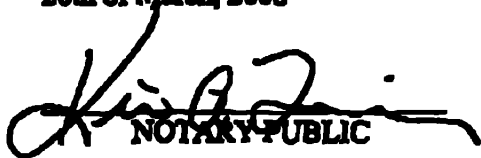
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18. Paragraph 13 of the Complaint alleges that the Union or the 1199 PAC made independent expenditures on behalf of the Donna Edwards campaign and coordinated radio advertisement expenditures with They Work For Us.

19. Neither the Union nor the 1199 PAC purchased or otherwise paid for any radio advertising in support the election of Donna Edwards or the defeat of her opponent.

  
PATRICK GASHARD

Sworn to before me this  
20th of March, 2008

  
NOTARY PUBLIC

KEVIN A. FINNEGAN  
Notary Public, State of New York  
No. 02F15073828  
Qualified in New York County  
Commission Expires 03/10/20 *LI* *K*